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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,222	02/20/2001	Lee Codel Lawson Tarbotton	550-212	3948

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EXAMINER

CHAI, LONGBIT

ART UNIT	PAPER NUMBER
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2131

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/785,222

Applicant(s)

TARBOTTON ET AL.

Examiner

Longbit Chai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

1. No claim for priority has been made in this application.
2. The effective filing date for the subject matter defined in the pending claims in this application is 02/20/2001.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 15, 16, 19, 33, 34, 37, 51 and 52 are rejected under 35 U.S.C. 102(e) as being anticipated by Kouznetsov (Patent Number: 6029256), hereinafter referred to as Kouznetsov.

4. As per claim 1, 19 and 37, Kouznetsov teaches a computer program product comprising a computer program operable to control a computer to generate audit data indicative of a request to execute a computer program, said computer program comprising:

- (i) computer virus scanner logic operable to receive a computer virus scan request, said computer virus scan request including data identifying a computer file to be

scanned for computer viruses (Kouznetsov: see for example, Column 5 Line 50 – 60);
and

(ii) audit data generator logic triggered by said computer virus scanner logic, and responsive to said data identifying said computer file to be scanned, to identify a request to execute a computer program and, in response to identification of said request to execute said computer program, to generate audit data identifying said computer program (Kouznetsov: see for example, Column 5 Line 50 – 60).

1. As per claim 15, 33 and 51, Kouznetsov teaches the claimed invention as described above (see claim 1, 19 and 37 respectively). Kouznetsov further teaches computer virus scan request results from an on-access scan (Kouznetsov: see for example, Column 3 Line 54).

2. As per claim 16, 34 and 52, Kouznetsov teaches the claimed invention as described above (see claim 1, 19 and 37 respectively). Kouznetsov further teaches computer virus scan request results from an on-demand scan (Kouznetsov: see for example, Column 3 Line 53).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2 – 5, 20 – 23 and 38 – 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kouznetsov (Patent Number: 6029256), hereinafter referred to as Kouznetsov, in view of Shiakallis (Patent Number: 6009518), hereinafter referred to as Shiakallis.

6. As per claim 2, 20 and 38, Kouznetsov teaches the claimed invention as described above (claim 1, 19 and 37 respectively). Kouznetsov does not teach a file access request to an operating system triggers generation of said computer virus scan request.

7. Shiakallis teaches a file access request to an operating system triggers generation of said computer virus scan request (Shiakallis: see for example, Column 4 Line 38 – 42).

8. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Shiakallis within the system of Kouznetsov because Kouznetsov teaches a method and system of computer virus scanning engine and Shiakallis teaches an improved security system which tracks usage of the system and reports audited information especially for operating system

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(Shiakallis: see for example, Column 1 Line 8, Column 4 Line 28 – 30 and Column 4 Line 38 – 42).

9. As per claim 3, 21 and 39, Kouznetsov teaches the claimed invention as described above (see claim 1, 19 and 37 respectively). Kouznetsov does not teach audit data generator logic is responsive to data identifying one or more banned computer programs to identify a request to execute a banned computer program.

10. Shiakallis teaches audit data generator logic is responsive to data identifying one or more banned computer programs to identify a request to execute a banned computer program (Shiakallis: see for example, Column 3 Line 28 – 30, Column 4 Line 37 – 42 and Column 4 Line 51 – 58).

11. Same rationale applies here as above in rejecting the claim 2.

12. As per claim 4, 22 and 40, Kouznetsov as modified teaches the claimed invention as described above (see claim 3, 21 and 39 respectively). Kouznetsov as modified further teaches if a request to execute a banned computer program is identified, then one or more banned program actions are triggered, said banned program actions including one or more of: (i) said banned computer program is deleted; (ii) said banned computer program is disabled; (iii) said banned program is encrypted and replaced by a stub program; and (iv) an alert indicating detection of said banned computer program is issued. (Shiakallis: see for example, Column 4 Line 56 – 58).

13. As per claim 5, 23 and 41, Kouznetsov as modified teaches the claimed invention as described above (see claim 3, 21 and 39 respectively). Kouznetsov as modified further teaches data identifying one or more banned computer programs is a permitted

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computer program list with any computer program not included within said permitted computer program list being a banned computer program (Shiakallis: see for example, Column 4 Line 56 – 58).

14. Claims 11 – 14, 17, 18, 29 – 32, 35, 36, 47 – 50, 53 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kouznetsov (Patent Number: 6029256), hereinafter referred to as Kouznetsov, in view of Hypponen (Patent Number: 6577329), hereinafter referred to as Hypponen.

15. As per claim 11, 29 and 47, Kouznetsov teaches the claimed invention as described above (see claim 1, 19 and 37 respectively). Kouznetsov does not teach audit data generator logic calculates a checksum value from said computer file, said checksum value being used in identification of said computer file as a particular computer program.

16. Hypponen teaches audit data generator logic calculates a checksum value from said computer file, said checksum value being used in identification of said computer file as a particular computer program (Hypponen: see for example, Column 1 Line 31 – 33).

17. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Hypponen within the system of Kouznetsov because Kouznetsov teaches a method and system of computer virus scanning engine and Hypponen teaches the virus screening of computer data (Hypponen: see for example, Column 1 Line 5 – 6).

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18. As per claim 12, 30 and 48, Kouznetsov as modified teaches the claimed invention as described above (see claim 11, 29 and 47 respectively). Kouznetsov as modified further teaches audit data generator logic stores said calculated checksum value and uses said stored calculated checksum values instead of recalculating said checksum value when said computer file subject to a subsequent access without any intervening change having been made to said computer file (Hypponen: see for example, Column 1 Line 66 – 67).

19. As per claim 13, 31 and 49, Kouznetsov teaches the claimed invention as described above (see claim 1, 19 and 37 respectively). Kouznetsov does not teach audit data generator logic is responsive to a non-user specified database of data indicative of particular computer programs.

20. Hypponen teaches audit data generator logic is responsive to a non-user specified database of data indicative of particular computer programs (Hypponen: see for example, Column 1 Line 47 – 53, Column 1 Line 66 – 67 and Column 3 Line 26 – 31).

21. Same rationale applies here as above in rejecting the claim 11.

22. As per claim 14, 32 and 50, Kouznetsov teaches the claimed invention as described above (see claim 1, 19 and 37 respectively). Kouznetsov does not teach audit data generator logic is responsive to a user specified database of data indicative of particular computer programs.

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23. Hypponen teaches audit data generator logic is responsive to a user specified database of data indicative of particular computer programs (Hypponen: see for example, Column 1 Line 47 – 53, Column 1 Line 66 – 67 and Column 3 Line 3 – 10).

24. Same rationale applies here as above in rejecting the claim 11

25. As per claim 17, 35 and 53, Kouznetsov teaches the claimed invention as described above (see claim 1, 19 and 37 respectively). Kouznetsov does not teach

local audit data is stored upon a computer within a computer network until said computer is polled by a remote computer upon said computer network whereupon said local audit data is sent to said remote computer.

26. Hypponen teaches local audit data is stored upon a computer within a computer network until said computer is polled by a remote computer upon said computer network whereupon said local audit data is sent to said remote computer (Hypponen: see for example, Column 5 Line 62 – 65).

27. Same rationale applies here as above in rejecting the claim 11

28. As per claim 18, 36 and 54, Kouznetsov as modified teaches the claimed invention as described above (see claim 17, 35 and 53 respectively). Kouznetsov as modified teaches remote computer generates a consolidated audit report for a plurality of computers upon said computer network (Hypponen: see for example, Column 5 Line 62 – 65).

29. Claims 6 – 10, 24 – 28 and 42 – 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kouznetsov (Patent Number: 6029256), hereinafter referred to as

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Kouznetsov, in view of Shiakallis (Patent Number: 6009518), hereinafter referred to as Shiakallis, and in view of in view of Christiano (Patent Number: 5671412), hereinafter referred to as Christiano.

30. As per claim 6, 24 and 42, Kouznetsov teaches the claimed invention as described above (see claim 1, 19 and 37 respectively). Kouznetsov does not teach the record of system usage to identify a request to execute a computer program.

31. Shiakallis teaches tracking the record of system usage to identify a request to execute a computer program (Shiakallis: see for example, Column 4 Line 28 – 37).

32. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Shiakallis within the system of Kouznetsov because Kouznetsov teaches a method and system of computer virus scanning engine and Shiakallis teaches an improved security system which tracks usage of the system and reports audited information (Shiakallis: see for example, Column 1 Line 8, Column 4 Line 28 – 30 and Column 4 Line 38 – 42).

33. Kouznetsov as modified does not teach expressly tracking concurrent usage logic operable to perform a concurrent usage check to identify a request to execute a computer program that would result in said computer program concurrently executing upon more than a predetermined number of computers upon a computer network.

34. Christiano teaches concurrent usage logic operable to perform a concurrent usage check to identify a request to execute a computer program that would result in said computer program concurrently executing upon more than a predetermined

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number of computers upon a computer network (Christiano: see for example, Column 7 Line 1 – 7).

35. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Christiano within the system of Kouznetsov as modified because (a) Kouznetsov as modified teaches an improved security system which tracks usage of the system by various users (Shiakallis: see for example, Column 1 Line 8, Column 4 Line 28 – 37), and (b) Christiano further teaches tracking the concurrent usage of the system by advantageously using the license management program (Christiano: see for example, Column 7 Line 1 – 7).

36. As per claim 7, 25 and 43, Kouznetsov as modified teaches the claimed invention as described above (see claim 6, 24 and 42 respectively). Kouznetsov as modified further teaches concurrent usage check indicates that said request to execute said computer program would result in more than said predetermined number of computers upon said computer network concurrently executing said computer program, then said request to execute said computer program is denied (Christiano: see for example, Column 7 Line 51 – 67).

37. As per claim 8, 26 and 44, Kouznetsov as modified teaches the claimed invention as described above (see claim 7, 25 and 43 respectively). Kouznetsov as modified further teaches a user message is displayed when execution of said computer program is prevented (Christiano: see for example, Column 7 Line 61).

38. As per claim 9, 27 and 45, Kouznetsov as modified teaches the claimed invention as described above (see claim 6, 24 and 42 respectively). Kouznetsov as modified

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further teaches predetermined number varies with time (Christiano: see for example, Column 7 Line 20 – 30).

39. As per claim 10, 28 and 46, Kouznetsov as modified teaches the claimed invention as described above (see claim 9, 27 and 45 respectively). Kouznetsov as modified further teaches at certain times said predetermined number is zero (Christiano: see for example, Column 7 Line 25 – 36: This is inherited by al of the run time of the program has been used).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Longbit Chai whose telephone number is 703-305-0710.


The examiner can normally be reached on Monday-Friday 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R Sheikh can be reached on 703-305-9648. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Longbit Chai
Examiner
Art Unit 2131

LBC


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